

Decision Memo
EJ Ranch and J Bar 9 Ranch Easement Application
USDA Forest Service
Shoshone National Forests
North Zone/ Wapiti Ranger District
Park County, Wyoming

Decision

Description of Decision

It is my decision to grant a road easement on existing Forest Service Road #479.1A and along 450 feet of new road construction to EJ Ranch (Lovelace Trust) and J Bar 9, Inc. The easement would be 40 feet on each side of centerline with such additional width as required for accommodation and protection of cuts and fills. The easement applies to approximately one-half mile of FSR 479.1A and provides access across national forest land to private land. The total acreage affected is about 2.5 acres with less than half an acre disturbed by the new construction. This easement will provide legal, year round access to private land. Such legal access is critical to these individuals from a land title perspective and for insurance considerations. The easement will also provide an avenue to formalize a maintenance agreement for the road with the landowners.

Background

FSR 479.1A connects to the South Fork Road (County Road 6WX/FSR 479). The junction is on national forest land and proceeds generally south for approximately 0.7 miles at which point it crosses Aldrich Creek. Currently the landowners gain access to their private land using a short spur off FSR 479.1 after it crosses Aldrich Creek. The current bridge is low standard and does not provide access for heavier vehicles such as large fire trucks. Adjacent to the bridge is a low water crossing that provides access to larger vehicles during most of the year when water levels are low. The low water crossing is generally unusable between April and July and during heavy rainstorms. Aldrich Creek is an intermittent stream that is commonly dry in the summer. FSR 479.1A is maintained at a maintenance level 2.

The Forest Service need is met by the bridge and the low water crossing. The landowners desire a higher standard road for year round access to the property and access in case of emergency. The landowners have requested an easement that will leave FSR 479.1A before it crosses Aldrich Creek. This would allow the landowners to provide the type of crossing over Aldrich Creek that meets their needs for emergency vehicle access. Four hundred and fifty feet of new construction will occur on national forest land.

Permit Clauses

FSR 479.1A would remain a Forest Service Road. If the landowners require that the road be maintained to a higher standard than level 2, their road permit will require that they perform all improvements and maintenance to keep the road at the higher standard. A joint maintenance agreement with the landowners will be issued in conjunction with the easement. The grantor of the easement (United States) reserves the right to extend rights and privileges for use of the road to other users including the public. All construction or reconstruction of the road shall be in accordance with plans, specifications, and written stipulations approved by the grantor prior to beginning such construction or reconstruction.

Rationale

I find that this decision balances the government's requirement to provide access to private land per the Federal Land Policy and Management Act of October 21, 1976 and provisions of the Alaska National Interest Lands Conservation of 1980 (ANILCA) while protecting the environment and managing the government's expenditure of funds. The current bridge and low water crossing is adequate for government and public needs. Forest Service Handbook 7709.59 24.11a2 states, "However, where the Forest Service does not need the improvements for its use, the permittee is entirely responsible for any additional cost." In this decision the landowners will bear the cost of the additional maintenance for the road and for construction of a bridge on their property that meets their needs. I also find that there are very limited environmental impacts in issuing the easements.

Category of Exclusion

This action falls under 1909.15 Chapter 31.3 of the Forest Service Handbook on Environmental Policy and Procedures.

Approval, modification, or continuation of minor special uses of National Forest System lands that require less than five contiguous acres of land.

Based on experience, the effects of implementing this action will be of limited context and intensity and will result in little or no environmental effects to either the physical or biological components of the environment.

Extraordinary Circumstances

Under the Forest Service Handbook definition, extraordinary circumstances exist, only when conditions associated with the proposed action are identified "as potentially having effects which may significantly affect the environment." Extraordinary circumstances include, but are not limited to, steep slopes or highly erosive soils, threatened and endangered species or their critical habitat, wetlands and flood plains, wetlands, or municipal watersheds, inventoried roadless areas, Congressionally designated areas (such as wilderness, wilderness study areas, or National Recreation Areas), Research Natural Areas, or Native American religious or cultural sites, archaeological sites, or historic properties or areas. There are no extraordinary circumstances that are impacted as a result of the actions associated with this decision.

Public Involvement

The Shoshone National Forest publishes a quarterly list of all proposed projects on the Forest. This project was listed in all the schedules since the Spring 2001 schedule. Over 200 scoping letters were mailed out on April 25, 2001 requesting any comments or issues on this project. An article concerning the scoping process appeared in the *Cody Enterprise* newspaper.

These are the preliminary, general issues that were identified in the scoping statement:

- What is the need for public access to the area?
- What are the opportunities for shared maintenance responsibilities?
- Will future road or bridge upgrades be needed?
- Is there a need for year round access?
- What effect will this action have on National Forest System lands or other landowners?
- What other alternatives to the proposal should be considered?

In addition, what are the needs for access for the private landowners and is any new construction, or reconstruction being proposed? What level of maintenance and road standard do the private landowners require?

Concerns from two contacts during the scoping period can be summarized as: 1) the Wyoming Game and Fish Department had no concerns; and 2) An individual who hunts in the area and has been using the road for access for 18 years was concerned about any loss of motorized use and access to the area.

The second comment is addressed in that the easement does not change the public access that is currently provided to the area.

Findings Required by Other Laws

This proposal is consistent with laws, regulations, and policy.

It is consistent with Title V, FLPMA of Oct. 21, 1976 (90 Stat. 2743 U.S.C. 1761-1771), as well as standards and guidelines in the Shoshone National Forest Land and Resource Management Plan (as amended).

All requirements of the National Historic Preservation Act are met. A cultural resource survey was conducted. The finding of the survey was one isolated artifact, evaluated to be not eligible for the National Register of Historic Places. The Wyoming State Historic Preservation Officer concurred with the determination of no effect (July 3, 2001).

If any previously undiscovered historic properties are encountered during project implementation, the forest archaeologist will be notified immediately and the area will be protected from further disturbance until a determination can be made on the newly discovered property(ies).

Administrative Review or Appeal Opportunities and Implementation

This decision is not subject to administrative appeal in accordance with 36 CFR 215.8 (a)(4) and may be implemented immediately.

Contact Person

For further information on this decision, contact Jennifer Watson, at (307) 527-6241 Cody, Wyoming.

/s/ MM Underwood

11/12/2002

for Rick D. Cables
Regional Forester-Rocky Mountain Region

Date